

Claim Rejections -35 USC § 103

1. The Examiner rejected claims 1-8 under 35 U.S.C. 103(a) as being unpatentable over Benson U.S. Patent No. 6,470,079 and further in view of Cope U.S. Application No. 2002/0046281.

2. The Examiner stated: "Regarding claims 1-8, Benson teaches advertising media purchase placed in either of movies, video, television, print, etc. within stated geographic area, tracking goals achieved, correlating and reporting the times of the goals achieved by customer...Benson teaches each media purchase including a unique directory number for accessing further information related to the subject matter of the media purchase. Benson teaches a database containing records correlating user geographic information, by cross-referencing caller's number and zip-code (see col. 5 line 18 to col. 7 line 10 and col. 9 line 55 to col. 10 line 32). Benson teaches all claimed features except for the media purchase including a web address and correlating user protocol address to the geographic area and tracking the Internet related goals. Official Notice is taken that providing a web address on media purchase is old and well known in the arte of marketing. One would be motivated to provide a web address on media purchase, instead of "800", in order to direct the user to the point of sale (web site). Official Notice is taken that determining geographic location associated with an Internet Protocol address is old and well known in the art of WWW. One would be motivated to determine the geographic location of users in order to report demographic information of the respondents to the campaign, as taught by Benson."

Applicant points out that the system described as *Benson* is very different from the instant invention. First, the *Benson* system deals exclusively with a telecommunications environment, "...the invention provides a telecommunications environment configured to monitor information related to caller traffic responding to advertising campaigns." *Benson*, col.2, lines 2-5. Specifically, a consumer utilizes the telephone to call a specific directory number in response to an advertiser's advertising campaign. When the call is placed, an established telecommunications environment is necessary to allow the *Benson* system to

function. At the core of the *Benson* system is the Public Switch Telephone Network ("PSTN"), which performs conventional telephone services and is utilized to obtain call information (i.e. directory number of the party placing the call, the directory number called, whether the call was connected, the duration of the call, etc.). On the contrary, each aspect of the instant invention is carried on over the Internet by both a consumer accessing the Internet website address to access further information related to the subject matter of the media purchase and a media buyer evaluating the effectiveness of the media purchase. The *Benson* system is much more limited in scope than the present invention since the *Benson* system provides no way for media buyers of the system to measure the effectiveness of advertising media purchases in any environment other than through a PSTN.

Second, as mentioned above, the calling information captured in *Benson* is solely limited to the call itself. The instant invention and *Benson* differ significantly in the type of information maintained. In the *Benson* system, no other data identifying the advertisement campaign is contained in the captured information except the directory number called by the consumer. Moreover, as previously mentioned above, the *Benson* system only captures call information while the instant invention provides significantly more information about the advertising media purchase. Specifically, the first database of the instant invention contains records relating to the start date, end date, geographic area of the advertising media purchase, etc. This provides for a more informative report to be generated by a user and greatly facilitates the analysis of the resulting data. Further, the instant invention provides a means for inputting and maintaining records in the first database resulting in a system that may be tailored to a user's needs. The *Benson* system lacks such means and is restricted to the information captured via a connected telephone call.

Third, the *Benson* system does not provide for any interaction with the consumer. Since it only captures calling information associated with a consumer who places a call to a particular directory number, interaction with a consumer is limited, at best. In the instant invention, the consumer is provided with a website address through advertising delivered in a wide variety of media, namely television, movies, video, radio, interactive television and print media. The consumer is then able to use this website address to achieve a variety of Internet-related goals

such as downloads, arrivals at specified web addresses, consumer data capture, sales lead generation, identification of dealer locations, viewing of specific text, viewing of specific images or receiving sound transmissions (see Claim 4 of the instant invention). The range of such goals provides much more detail about the consumer than does a simple phone call. Furthermore, the *Benson* system only monitors calling information related to the call. The instant invention provides an insight into the relative interest of the consumer. For example, the instant invention can show that a consumer had enough interest to visit the website but not interested enough to make a purchase. Also, it can show whether the consumer was interested enough to view an online video or link to a related site but not committed to making a purchase. Moreover, the instant invention tracks the achievement of the Internet-related goals as a direct result of an advertising campaign. The *Benson* system lacks this function and is limited solely to the call information. All of this additional information, which can be provided through the present invention, represents a substantial improvement over the *Benson* system and thus patentable subject matter.

Fourth, the Examiner's conclusion that "determining geographic location associated with an Internet Protocol address is old and well known in the art of WWW." "One would be motivated to determine the geographic location of users in order to report demographic information of the respondents to the campaign, as taught by *Benson*" is traversed by the following rule:

"The combination of elements from non-analogous sources, in a manner that reconstructs the applicant's invention only with the benefit of hindsight, is insufficient to present a prima facie case of obviousness. There must be some reason, suggestion, or motivation found in the prior art whereby a person of ordinary skill in the field of the invention would make the combination. That knowledge cannot come from the applicant's invention itself." *In re Oetiker*, 24 USPQ 2d 1443, 1446 (Fed. Cir. 1992).

As stated above, the *Benson* system relies solely on the PSTN, a conventional telephone system, to accomplish its stated goals. This certainly is non-analogous to the Internet system employed by the instant invention. Consequently, there is absolutely no reason, suggestion, or

motivation found in *Benson* whereby a person of ordinary skill in the field of the invention would make the combination with determining geographic location associated with an Internet Protocol address.

Finally, the previously mentioned reporting aspects of the instant invention and the *Benson* system are significantly different. The report generated by the *Benson* system is limited to the data collected via the PSTN, specifically, the calling information. On the contrary, the report generated by the instant invention includes media type, media name, stated geographic area of the media purchase, start date, end date, summary of Internet traffic originating in the stated geographic area between the start and end dates, and summary of Internet-related goals achieved for Internet users located within the stated geographic area between the start and end dates and the residual period. Accordingly, a media buyer can correlate the foregoing information contained in a single report to efficiently determine the effectiveness of a particular advertising media purchase.

3. Examiner stated: "Cope teaches tracking web related goals and correlating and reporting the timing of Internet related goals (see page 2, par. 29 to page 5 par. 73). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Benson's reporting of advertising campaign with Cope's tracking of Internet related goals in order to evaluate the advertising effectiveness of the purchase media, as taught by Benson (see col. 1 line 65 to col. 2 line 55)."

The Applicant respectfully traverses this rejection. The *Cope* method is comprised of the following:

"[C]omparing requests, which are sent from a Web Browser to a Web server for access to resources within the Web site, with a set of redirecting criteria forwarding to a request tracker each request which matches the redirection criteria; and the request tracker determining a session identifier, logging the request together with the session identifier, logging the request together with the session identifier, and forwarding the request to the Web server for processing.

The method preferably also includes: for a set of resources on the Web server for which tracking is required, replacing original resource names with new resource names; and, for requests which match the redirection criteria and which include said original resource names, replacing the original resource names with the new names such that requests forwarded to the Web server by the request tracker include the new names for accessing the renamed resources.” (page 2 par. 29 to par. 30)

The instant invention is nothing like the *Cope* invention. The present invention lacks a set of redirecting criteria, request tracker and session identifier. It is these components which are key to the tracking abilities of the *Cope* invention. Accordingly, a combination of *Cope* with the *Benson* system is unrealistic.

“The combination of elements from non-analogous sources, in a manner that reconstructs the applicant's invention only with the benefit of hindsight, is insufficient to present a prima facie case of obviousness. There must be some reason, suggestion, or motivation found in the prior art whereby a person of ordinary skill in the field of the invention would make the combination. That knowledge cannot come from the applicant's invention itself.” *In re Oetiker*, 24 USPQ 2d 1443, 1446 (Fed. Cir. 1992).

Here, the telecommunications monitoring system of *Benson* and the *Cope* system are certainly non-analogous sources as the former is a system for real-time reporting of advertising effectiveness and the latter is a request tracking for analysis of website navigation. They cannot be combined to yield the present invention. As discussed above, the *Benson* system cannot be enhanced or even used in any manner in combination with the *Cope* system. Consequently, there is absolutely no reason, suggestion, or motivation found in either *Benson* or *Cope* whereby a person of ordinary skill in the field of the invention would make the combination.

In summary, as *Cope* cannot be combined with *Benson* to yield the present invention, the Applicant maintains that this rejection under 35 U.S.C. 103(a) is traversed.